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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------|------------------|
| 10/084,293 | 02/25/2002 | Mark W. Leiby | 68703/152 | 7984 |
| 33893 | 7590 | 11/29/2005 | EXAMINER | |
| JEFFREY L. BRANDT c/o PORTFOLIO IP P.O. BOX 52050 MINNEAPOLIS, MN 55402 | | | MICHENER, JENNIFER KOLB | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1762 | |

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/084,293

Applicant(s)

LEIBY ET AL.

Examiner

Jennifer K. Michener

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17-26 is/are pending in the application.
4a) Of the above claim(s) 5-7, 10 and 17-26 is/are withdrawn from consideration.
5) ☒ Claim(s) 1-4, 8 and 9 is/are allowed.
6) ☒ Claim(s) 11-15 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

The following new objection is made:

Claim Objections

1. Newly-added claims 24-26 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim must be worded in the alternative. See MPEP § 608.01(n). Accordingly, the claims 24-26 have not been further treated on the merits.

Claim Rejections - 35 USC § 112

2. The rejection of claims 1-4, 8-9, and 11-15 under 35 U.S.C. 112, first paragraph, has been withdrawn based on Applicant's amendments.

Claim Rejections - 35 USC § 103

3. Claims 11-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hossainy et al. (6,153,252).

Examiner maintains the rejection of the previous office action.

4. The rejection of claims 1-4, 8, and 14 under 35 U.S.C. 103(a) as being unpatentable over Hossainy et al. in view of Versteeg et al. has been withdrawn based on Applicant's arguments.

5. The rejection of claim 9 under 35 U.S.C. 103(a) as being unpatentable over Hossainy in view of Versteeg as applied to claims 1, 3-4, and 8 above, and further in view of Tedechi has been withdrawn based on Applicant's arguments.

Response to Arguments

6. Applicant's arguments regarding claim 11 filed 9/6/2005 have been fully considered but they are not persuasive.

Applicant argues that amended claim 11 is now directed to use of a *vacuum* chamber while *controlling the pressure*, which is not taught by Hossainy.

Examiner disagrees. Claim 11 does now require the use of a vacuum chamber, but the claim never requires any method steps of drawing a vacuum in said chamber.

Therefore, any chamber capable of use as a vacuum chamber meets the claim limitation. Hossainy's plastic bag can be used as a vacuum chamber in as much as a vacuum could be pulled on plastic bag. Claim 11 is silent as to the vacuum, purging, metering, etc. method steps that Applicant claims create the desired film in claim 1. Additionally, pressure is inherently controlled in Hossainy's bag, such as by way of ambient temperature and pressure in the room or the pressure and temperature of the spray system and materials within the bag.

Allowable Subject Matter

7. Claims 1-4 and 8-9 are allowed.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer K. Michener whose telephone number is (571) 272-1424. The examiner can normally be reached on Mondays & on Tuesday and Wednesday afternoons.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy H. Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "JL Michener".

Jennifer Michener
Primary Examiner
Art Unit 1762
November 27, 2005